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FIRST GENERAL COUNSEL'S REPORT

CELA

RAD REFERRAL 15L-24R

DATE RECEIVED: November 5, 2015

DATE NOTIFICATION: November 9, 2015

DATE OF LAST RESPONSE: January 15, 2016

DATE ACTIVATED: January 21, 2016

EARLIEST SOL: September 9, 2019

LATEST SOL: December 31, 2019

ELECTION CYCLE: 2014

SOURCE: Internally Generated

RESPONDENT: Strong Country for Today & Tomorrow and
Vincent DeVito in his official capacity
as treasurer¹

RELEVANT STATUTES: 52 U.S.C. § 30116(a), (b)
52 U.S.C. § 30116(f)
11 C.F.R. § 103.3(b)
11 C.F.R. § 110.1
11 C.F.R. § 110.9

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

The Commission's Alternative Dispute Resolution Office ("ADRO") referred Strong Country for Today & Tomorrow (SCOTTPAC) and Vincent DeVito in his official capacity as treasurer ("the Committee") for failing to timely refund, reattribute, or redesignate excessive contributions totaling \$62,800 from 27 individuals and one non-multicandidate political

¹ Paul Kilgore was the treasurer of record at the time of the activity at issue in this matter. See Statement of Organization (June 20, 2014), available at <http://docquery.fec.gov/pdf/453/14020423453/14020423453.pdf>. On February 18, 2015, the Committee filed an amended Statement of Organization designating Vincent DeVito, the Committee's Chief Legal Counsel, as its treasurer. See Statement of Organization (Feb. 18, 2015), available at <http://docquery.fec.gov/pdf/636/15970269636/15970269636.pdf>.

1 committee for the 2014 primary and general elections.² The Committee untimely remedied all of
2 the excessive contributions at issue and asks that the Commission dismiss the matter.

3 Based on the available information, we recommend that the Commission open a matter
4 under review ("MUR") and find reason to believe that the Committee violated 52 U.S.C.
5 § 30116(f) by accepting excessive contributions totaling \$62,800. Additionally, we recommend
6 that the Commission enter into pre-probable cause conciliation with the Committee and approve
7 the attached conciliation agreement.

8 II. FACTS

9 The Committee was Scott Brown's principal campaign committee during his run for the
10 U.S. Senate in 2014; it is currently a nonconnected multicandidate committee registered with the
11 Commission.³ As detailed in the Referral, the excessive contributions were included in three of
12 the Committee's disclosure reports. Specifically, the Committee's Amended 2014 October
13 Quarterly Report, covering the period from August 21, 2014, to September 30, 2014, disclosed
14 excessive contributions from fourteen individuals and one non-multicandidate political
15 committee totaling \$35,100 that were not timely remedied.⁴ The Committee's 2014 12-Day Pre-
16 General Report, filed on October 23, 2014, and covering the period from October 1, 2014, to

² ADRO Referral of Strong Country for Today & Tomorrow (SCOTTPAC), 15L-24R (Nov. 5, 2015) ("Referral"), incorporated herein by reference.

³ See Amended Statement of Organization (Jan. 9, 2015); Notification of Multicandidate Status (Feb. 3, 2016). The Committee, formerly named New Hampshire for Scott Brown, was the principal campaign committee of Scott Brown, a 2014 U.S. Senate candidate for New Hampshire, who lost the 2014 general election. The excessive contributions at issue were all included in disclosure reports that New Hampshire for Scott Brown filed with the Commission. The Committee currently has cash on hand of \$102,739 and zero debts. See Committee 2015 Year End Report (Jan. 27, 2016); available at <http://docquery.fec.gov/pdf/597/201601279004650597/201601279004650597.pdf>.

⁴ The Amended 2014 October Quarterly Report, filed on October 23, 2014, disclosed excessive contributions totaling \$37,700 from fifteen individuals and one non-multicandidate political committee, but the Committee timely remedied one \$2,600 contribution from an individual and disclosed it in the 2014 30 Day Post-General Report. The coverage dates for the 2014 October Quarterly Report were adjusted to reflect the coverage dates of the Committee's 2015 12 Day Pre-Primary Report covering July 1, 2014 to August 20, 2014.

1 October 15, 2014, disclosed additional excessive contributions from ten individuals totaling
2 \$22,450 that were untimely remedied. Further, the Committee's 2014 30-Day Post-General
3 Report, covering the period from October 16, 2014, to November 24, 2014, disclosed excessive
4 contributions from three individuals totaling \$5,250 that were untimely remedied.⁵

5 On December 7, 2014, the Reports Analysis Division ("RAD") sent the Committee a
6 Request for Additional Information ("RFAI") referencing the Amended 2014 October Quarterly
7 Report. On December 9, 2014, RAD sent another RFAI to the Committee referencing the 2014
8 12-Day Pre-General Report. Both RFAIs noted the Committee's receipt of excessive
9 contributions and requested that the Committee take corrective action.⁶

10 The Committee responded by filing a Miscellaneous Paper Document ("FEC Form 99")
11 outlining refunds of excessive contributions from the Amended 2014 October Quarterly Report.⁷
12 On January 9, 2015, the Committee filed another FEC Form 99 outlining refunds of excessive
13 contributions from the 2014 12-Day Pre-General Report.⁸ Both FEC Form 99s stated, in part:
14 "[Contributions from] Individuals or Committees that appear to exceed the contribution limits

⁵ The 2014 30 Day Post-General report, filed on December 4, 2014, disclosed excessive contributions totaling \$26,700 from 20 individuals, but the Committee remedied seventeen of the contributions, totaling \$21,450, and disclosed the refunds in the 2014 Year-End Report.

⁶ At the time the RAD analyst reviewed the Amended 2014 October Quarterly Report, the Commission had not yet been received the Committee's 2014 30-Day Post-General Report from the Secretary of the Senate. As a result, the December 7, 2014 RFAI cited one excessive contribution that had been timely remedied on the 2014 30-Day Post-General Report.

⁷ See Miscellaneous Report to FEC (Jan. 6, 2015), *available at* <http://docquery.fec.gov/pdf/830/15020020830/15020020830.pdf>.

⁸ See Miscellaneous Report to FEC (Jan. 9, 2015), *available at* <http://docquery.fec.gov/pdf/731/15020032731/15020032731.pdf>.

1 have been refunded or reattributed” and that those refunds would be disclosed in the 2014 Year-
2 End Report.⁹

3 On January 9, 2015, the Committee filed that 2014 Year-End Report covering the period
4 from November 25, 2014, to December 31, 2014, which disclosed \$54,950 of untimely
5 contribution refunds. As mentioned in the Committee’s Form 99s, this report disclosed untimely
6 refunds for contributions from fourteen individuals and one non-multicandidate political
7 committee totaling \$32,500 from the Amended 2014 October Quarterly Report, and untimely
8 refunds in general election contributions from ten individuals totaling \$22,450 from the 2014
9 12-Day Pre-General Report.¹⁰

10 On February 27, 2015, the RAD analyst informed the Committee’s treasurer that the
11 excessive contributions could be referred to another Commission office for further action
12 because the contributions were untimely remedied. The analyst also told the treasurer that he
13 could provide additional information to show that the contributions were not excessive or were
14 timely remedied. The Committee did not provide any additional information.

15 RAD referred the Committee to ADRO for failing to timely remedy the excessive
16 contributions.¹¹ ADRO was unable to reach a mutually satisfactory resolution during

⁹ *Id.*

¹⁰ The Commission received the 2014 Year-End Report from the Secretary of the Senate after the RAD Analyst reviewed the Committee’s 2014 30-Day Post-General Report. As a result, on January 12, 2015, RAD sent an RFAI to the Committee requesting that it remedy the seventeen excessive contributions disclosed in the 2014 30-Day Post-General Report that had already been remedied on the 2014 Year-End Report. *See supra* note 5. Also, on January 16, 2015, the RAD analyst spoke with the Committee’s then-Treasurer, Paul Kilgore, regarding the December 7, 2014, RFAI referencing the Amended 2014 October Quarterly Report. The treasurer informed the analyst that the Committee already filed two FEC Form 99s with the Secretary of the Senate.

¹¹ See Memorandum from Debbie Chacona, Asst. Staff Director, RAD, FEC, to Lynn Fraser, Director ADRO, FEC (June 9, 2015). RAD referred this matter to ADRO in accordance with the 2013-2014 *RAD Review and Referral Procedures for Authorized Committees (Standard 5)*. Under that Standard, RAD referred only excessive contributions not remedied within days of receipt.

1 negotiations with the Committee. The Committee, however, refunded the remaining \$7,850 in
2 excessive contributions that were not included in the refunds disclosed in the 2014 Year-End
3 Report.¹² ADRO referred the matter to OGC.¹³ OGC notified the Committee of the Referral.

4 In response, the Committee claims that the untimely refunds are a “trifling fraction” of its
5 total receipts in the 2014 cycle during which it maintained an overall compliance record of over
6 99%.¹⁴ The Committee states that it spent considerable resources and took several measures to
7 comply with its reporting obligations — it developed and required vendors to comply with
8 policies regarding the routing, screening, batching, and coding of all contributions; it employed a
9 number of checks that ensured compliance with both the internal processes and federal
10 regulations; and it took steps to screen excessive contributions.¹⁵ The Committee further states
11 that it worked closely with RAD to comply with the reporting requirements and to resolve lapses
12 in its compliance efforts.¹⁶ The Committee asks that the Commission dismiss the matter.¹⁷

¹² See Miscellaneous Report to FEC (Sept. 25, 2015), available at <http://docquery.fec.gov/pdf/050/201509259002779050/201509259002779050.pdf> (disclosing \$7,850 in refunds from four individuals).

¹³ See Referral at 1. See also *Guidebook for Complainants and Respondents on the FEC Enforcement Process* at 24 (May 2012) (matter may be referred to OGC if the respondent and ADRO are unable to reach a settlement during bilateral negotiations).

¹⁴ Resp. at 1.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 2.

1 **III. LEGAL ANALYSIS**

2 During the 2014 election cycle, an authorized committee was limited to accepting a total
3 of \$2,600 per election from any individual or non-multicandidate political committee.¹⁸

4 A primary and a general election are separate elections.¹⁹ When a committee receives an
5 excessive contribution, the committee must, within 60 days of the contribution's receipt, either
6 refund the excessive portion of the contribution or obtain a redesignation or reattribution from
7 the contributor.²⁰

8 It is undisputed that the Committee accepted excessive contributions totaling \$62,800
9 from several individuals and a non-multicandidate committee, and that all of the refunds for
10 these contributions were untimely. The Committee, however, asks that the Commission dismiss
11 the matter because it spent considerable resources and took several measures to comply with its
12 reporting obligations, and the untimely refunds were a small fraction of its total 2014 receipts.
13 Nevertheless, the amount in violation met the Commission-approved referral threshold for
14 ADRO (and ADRO further referred the matter to OGC when it reached an impasse with the
15 Committee), and the Committee made most of the refunds between 77 and 113 days after the
16 contributions' receipt, much later than provided for by regulation. Therefore, we recommend
17 that the Commission open a MUR and find reason to believe that the Committee violated
18 52 U.S.C. § 30116(f).²¹

¹⁸ See 52 U.S.C. § 30116(a)(1)(A), (f); 11 C.F.R. §§ 110.1(a)-(b), 110.9.

¹⁹ See 52 U.S.C. § 30101(l)(A); 11 C.F.R. § 100.2(a)-(c).

²⁰ See 11 C.F.R. § 103.3(b)(3). The Commission's regulations include procedures for reattributing or redesignating a contribution. See generally 11 C.F.R. § 110.1(b), (k).

²¹ The Commission recently dismissed unrelated allegations against the Committee in MUR 6815.

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14 **V. RECOMMENDATIONS**

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1. Open a MUR.

2. Find reason to believe that Strong Country for Today & Tomorrow and Vincent DeVito in his official capacity as treasurer violated 52 U.S.C. § 30116(f).

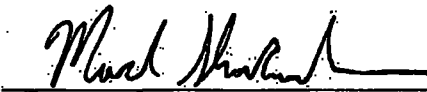
3. Approve the attached Factual and Legal Analysis.
4. Enter into conciliation with Strong Country for Today & Tomorrow and Vincent DeVito in his official capacity as treasurer prior to a finding of probable cause to believe.
5. Approve the attached conciliation agreement.
6. Approve the appropriate letter.


Kathleen Guith
Acting Associate General Counsel
for Enforcement

3.21.16
Date

BY:


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